IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5526 of 1987

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

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VINOD VADILAL SHAH - Petitioner(s)

Versus

UNITED COMMERCIAL BANK & 2 - Respondent(s)

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Appearance :

MR GM JOSHI for Petitioner

Ms.ARCHANA AMIN for MR. KG VAKHARIA for Respondents

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 26/09/2005

ORAL JUDGMENT

The petitioner before this Court is an employee of the respondent-United Commercial Bank [hereinafter referred to as, "**the Bank**"]. The petitioner is a Physically Handicapped person and was appointed in the Bank in the Clerical cadre as a handicapped person. The petitioner has relied upon Office Memorandum dated 4th

November, 1977 issued by the Government of India. He has claimed that under the aforesaid Office Memorandum, the Government of India has introduced reservation of posts in the Civil Services for physically handicapped persons. The Bank being a nationalized bank, the said reservation policy should apply to the Bank *mutatis mutandis*. The petitioner, therefore, shall be considered for promotion to Junior Management Grade Scale-I on the posts reserved for Physically Handicapped persons.

The claim made by the petitioner is misconceived. Mr. Joshi has failed to establish that the policy decision of the Government of India taken in respect of the civil services shall stand automatically extended to the services in the nationalized banks. He admits that the Bank has adopted the aforesaid policy for the servants of the Bank in the year 1997. Pursuant to the said policy, the petitioner had been considered for further promotion to the Junior Management Grade Scale-I on a post reserved for physically handicapped person. The petitioner was promoted on 28th February, 2001. He has, however, submitted that the petitioner ought to have been considered for such promotion in the year 1997. The petitioner is, therefore, entitled to deemed promotion to Junior Management Grade Scale-I from the year 1997 and

the consequential benefits.

It has not been pleaded in the present petition that since the adoption of the aforesaid policy by the Bank in the year 1997, any selection procedure was undertaken in which the petitioner's case was not considered. In absence of the pleadings, the prayer made in this petition cannot be granted.

Thus, the petitioner's claim for promotion as a handicapped person, based on Office Memorandum dated 4th November, 1977, is not tenable. Since the implementation of reservation for handicapped persons in the year 1997, the petitioner's claim for promotion as a handicapped person has been granted. The petitioner has been promoted in the year 2001.

In above view of the matter, no order is required to be made on this petition. The petition is dismissed. Rule is discharged. There shall be no order as to costs.

{Miss R.M Doshit, J.}

*Prakash**